Before the FEDERAL COMMUNICATIONS COMMISSION Washington, D.C. 20554

In re Numbering Resource Optimization)	CC Docket No. 99-200
)	
South Bay Cities Council of)	
Governments, et al. Petition for)	DA 05-3158
Emergency Relief of the California)	
Public Utilities Commission's Decision)	
to Implement an All Services Area Code)	
Overlay in the 310 Area Code)	

COMMENTS OF SPRINT NEXTEL CORPORATION

Sprint Nextel Corporation ("Sprint") submits these comments in opposition to the Petition for Emergency Relief ("Petition") filed by the South Bay Cities Council of Governments ("SBCCOG") and The Telephone Connection of Los Angeles, Inc. and The Telephone Connection Local Services, LLC ("TCLA") (collectively, the "Petitioners"). Sprint urges the Federal Communications Commission ("Commission") to deny the Petitioner's request to direct the California Public Utilities Commission ("CPUC") to stay implementation of the CPUC's decision to implement an all-services overlay ("Overlay Decision") in the 310 NPA.²

Implementation of the 310 overlay is already underway with customer notices having been sent and permissive dialing scheduled to begin December 31, 2005 – eight days from now. Efforts to delay implementation of the 310 overlay at this time will almost assuredly result in

¹ South Bay Cities Council of Governments, The Telephone Connection of Los Angeles, Inc. and the Telephone Connection Local Services, LLC, Petition for Emergency Relief, CC Dkt. 96-98 (filed Nov. 23, 2005) (the "Petition")...

² Order Instituting Rulemaking in the Commission's Own Motion into Competition for Local Exchange Service; Order Instituting Investigation on the Commission's Own Motion into Competition for Local Exchange Service, Rulemaking 95-04-043, Investigation 95-04-044, Opinion Granting Petition to Modify Decision 00-09-073, Decision 05-08-040 (CPUC Aug. 25, 2005) ("Overlay Decision").

customer confusion and the exhaust of numbering resources, causing harm to consumers, businesses, carriers and competition in Los Angeles. Although Sprint does not support the application of discriminatory dialing plans to any technology, the *Overlay Decision* is not the source of the disparity to which the Petitioners object. Moreover, the objection is untimely. Sprint respectfully urges the Commission to deny the Petition and to allow the 310 overlay to be implemented as scheduled.

I. BACKGROUND

The 310 area code serves LATA 730 in Los Angeles County. As early as 1997, telecom industry representatives began the process of seeking numbering relief for the 310 area code due to a dwindling telephone number supply. The CPUC first ordered an overlay for 310 in 1998,³ but then suspended that decision when it determined that the life of the area code could be extended through numbering optimization efforts.⁴ Exercising its delegated authority received from the Commission, the CPUC adopted various number reporting and conservation measures.⁵

CPUC efforts to conserve numbering resources included rationing the number of codes allotted each month, assigning codes by lottery, requiring sequential numbering, and increasing the level of contamination from 10% to 25%. These CPUC numbering optimization efforts in conjunction with federal numbering policies — namely thousand-block number pooling and local number portability — proved effective in extending the life of the 310 area code. Nevertheless, the 310 area code continued to rapidly exhaust, and it became apparent that more

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³ CPUC Decision 98-05-021, released May 7, 1998.

⁴ CPUC Decision 99-09-067, released September 16, 1999.

⁵ In the Matter of California Public Utilities Commission Petition for Delegation of Additional Authority Pertaining to Area Code Relief and NXX Code Conservation Measures, Order, CC Docket No. 96-98, FCC 99-258 (rel. Sept. 15, 1999)("FCC Delegated Authority Order").

drastic numbering relief remained necessary to ensure an adequate supply of numbers in the area for customers' telecommunications service needs.

On March 9, 2005, a group of wireless and wireline carriers, including Sprint, filed a Petition for Modification of an earlier CPUC decision that established a geographic split as the back-up 310 area code relief plan.⁶ The Petition for Modification sought to replace the geographic split with an all-services overlay. On August 25, 2005, recognizing the imminent exhaust of the 310 NPA, the CPUC issued its *Overlay Decision* granting the Petition and creating the first all-services overlay in the State. The CPUC established the following schedule for implementation of the 310 overlay:

- November 30, 2005- start of public education plan;
- December 31, 2005- permissive dialing;
- July 26, 2006- mandatory dialing; and,
- August 26, 2006- number assignment from the new 424 area code can commence.

The *Overlay Decision* has faced petitions for rehearing and modification, but the CPUC has upheld its decision to proceed with the 310/424 overlay on both occasions.⁸

II. THE REQUESTED RELIEF WOULD HARM THE PUBLIC INTEREST

A Commission grant of the Petitioner's stay request would result in harm to the public interest. Any delay in implementation runs a high risk of complete number exhaust and the

⁶ Petition for Modification of Decision (D.) 00-09-073, filed on March 9, 2005. In D.00-09-073, the CPUC adopted a "back-up plan" in the form of geographic split of the 310 NPA as required under the *FCC Delegated Authority Order* at ¶ 15. Joint Petitioners included Cingular Wireless, Nextel of California, Inc., SBC California, Sprint, T-Mobile, Verizon Wireless, and Verizon California, Inc.

⁷ Overlay Decision at 56-57.

⁸ See, Order Instituting Rulemaking in the Commission's Own Motion into Competition for Local Exchange Service; Order Instituting Investigation on the Commission's Own Motion into Competition for Local Exchange Service, Rulemaking 95-04-043, Investigation 95-04-044, Order Denying Rehearing of Decision (D.) 05-08-040, Decision 05-11-033, (CPUC Nov. 18, 2003)("Order Denying Rehearing"); See also, Order Instituting Rulemaking in the Commission's Own Motion into Competition for Local Exchange Service; Order Instituting Investigation on the Commission's Own Motion into Competition for Local Exchange Service, Rulemaking 95-04-043, Investigation 95-04-044, Opinion on Petition for Modification of (D.) 96-12-086, Decision 05-12-047 (CPUC Dec. 15, 2005)("Opinion on Modification").

inability of consumers, businesses, and telecommunications carriers to obtain new telephone numbers. The education process has already begun and a reversal at this late date would inevitably produce significant customer confusion and negative consequences.

Telephone numbers are being depleted quickly in the 310 NPA. Even if the CPUC's overlay plan is executed to perfection and without delay, industry experts fear current supplies of numbers in the 310 area code will not last until the 424 area code is available. Presently, there are fewer than 160 thousand-blocks of telephone numbers available for assignment in the 310 NPA. In the past four months, 96 thousand-blocks were assigned, a pace of 24 thousand-blocks per month. At this rate, in eight months time (August 25, 2006 is the date that numbers may be assigned out of the new 424 area code), demand would exceed supply by 32 thousand-blocks. As of December 21, 2005, of the 16 rate centers in the 310 NPA, four rate centers have zero thousand-blocks remaining, and eight rate centers have fewer than five thousand-blocks remaining for

assignment.10

The numbering crisis in the 310 NPA also has a chilling effect on competition particularly as it relates to new entrant competitors. Generally speaking, in order to establish service in an area, a new entrant must first establish a Local Routing Number (LRN); however, in order to obtain an LRN the new entrant must have a full NXX or 10,000 block. There is only one full NXX remaining in the 310 NPA, meaning only one new entrant will be able to obtain an LRN effectively prohibiting other new entrants from entering the market.

⁹ NeuStar Pool Tracking Report at: https://www.nationalpooling.com/pas/control/blocksreport

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Implementation of the CPUC's *Overlay Decision* without delay is, therefore, imperative to ensure that telephone numbers will be available for consumers, businesses, and all telecommunications service providers including new entrants.

III. PETITIONERS' CHALLENGE TO 1+10-DIGIT DIALING IS UNTIMELY BUT REMAINS AN OPEN ISSUE BEFORE THE CPUC

Petitioners argue that the CPUC *Overlay Decision* is not in compliance with Commission numbering rules and guidelines.¹¹ In particular, Petitioners contend that maintenance of the 1+10-digit dialing pattern for wireline consumers is unfairly discriminatory.¹² Sprint does not support the application of discriminatory dialing pattern on any technology, but the *Overlay Decision* is not the source of the dialing pattern to which the Petitioners object and this Petition is not timely.

The *Overlay Decision* did not create the 1+10-digit dialing arrangement for wireline originated calls. Rather, the *Overlay Decision* maintains a dialing pattern to which customers in California are accustomed. This dialing protocol has been in existence for years and is the result of the technical configuration of incumbent local exchange carriers' networks.¹³ Petitioners did not raise their concerns that the 1+10-digit dialing protocol would place wireline carriers at a competitive disadvantage until August 2005¹⁴ despite knowing since 1996—for nine years—that "mandatory 1+10-digit dialing for all local calls within the affected region [w]ould be required for an overlay relief plan."¹⁵ The Commission should reject these eleventh-hour tactics to forestall implementation of the 310 overlay.

¹¹ *Petition* at 3.

¹² *Id.*.

¹³ Order Denying Rehearing at 2.

¹⁴ Order Denying Rehearing at 3.

¹⁵ *Id.* at 4-5 (citing two other CPUC decisions, D.95-08-052 and D.96-08-028).

Additionally, although the CPUC declined to adopt modification of the 1+10-digit dialing pattern for the 310/424 overlay at this time, it has left open the possibility that it would adopt the proposed modification in the future. The CPUC has permitted parties to file an additional round of comments on this issue before it issues a final decision on the applicability to 10-digit dialing to future overlays. As such, Petitioners may seek relief in an open CPUC proceeding in which the 1+10-digit dialing protocol will be considered more fully.

Petitioners' recent concerns about 1+10-digit dialing disparity simply come too late, and must not interrupt the 310 overlay. As stated by the CPUC:

In summary, we conclude that a modification of the 1+10-digit dialing pattern specifically for the 310/424 area code overlay has not been shown to be warranted. The risk of prolonging the implementation of the 310/424 area code overlay and creating more customer confusion during the implementation phase prevails over the potential advantages identified by [Petitioner].¹⁷

IV. IMPLEMENTATION OF THE 310 OVERLAY HAS BEGUN; CONSUMERS AND BUSINESSES WOULD BE HARMED BY REVERSING COURSE AT THIS STAGE

Again, Californians are accustomed to 1+10-digit dialing and the Public Education Plan, which commenced with initial customer notices sent to customers in late November, included specific instructions to maintain current 1+10-digit dialing patterns. The proverbial "train has left the station," and reversal at this point would lead only to customer confusion as well as additional expense to reeducate consumers and businesses. The Commission should deny the Petition to ensure that the 310 overlay is implemented as planned protecting consumers from unnecessary confusion while also ensuring an adequate supply of telephone numbers. Grant of

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¹⁶ Opinion on Modification at 11.

¹⁷ Opinion on Modification at 10.

the Petition will create serious consequences for consumers, businesses and carriers in the 310 area code.

V. CONCLUSION

For the foregoing reasons, Sprint Nextel Corporation urges the Commission to deny the *Petition* and to allow the 310 overlay to be implemented in accordance with the CPUC *Overlay Decision*.

Respectfully submitted,

Sprint Nextel Corporation

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